

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Carmelo Herrera, # 29088-050,

) **C/A No. 0:10-1881-RBH**
) [formerly Case No. 1:10-cv-03608 (D.N.J.)]

Petitioner,

)
)
)

vs.

ORDER

Warden, *FCI Bennettsville, SC,*

)
)
)
)
 Respondent.)
)

This is an action seeking habeas corpus relief pursuant to 28 U.S.C. § 2241. This Section 2241 action was transferred from the District of New Jersey to the District of South Carolina by the Honorable Noel L. Hillman, United States District Judge. In an order filed in *Carmelo Herrera v. Warden, FCI Bennettsville, SC*, Case No. 1:10-cv-03608 (D.N.J.), Judge Hillman directed that a civil action number be assigned and that the Section 2241 case be transferred to the District of South Carolina.

This matter is before the court because of the petitioner's failure to comply with the magistrate judge's order (Entry No. 7) of July 22, 2010. A review of the record indicates that the magistrate judge ordered the petitioner to submit items needed to render this case into "proper form" within twenty-one (21) days, and that if he failed to do so, this case would be dismissed *without prejudice*.

Specifically, the magistrate judge directed the petitioner to submit an amended petition on the court-approved Section 2241 form and a motion to proceed *in forma pauperis*. On July 22, 2010, the Office of the Clerk of Court mailed a copy of the order of July 22, 2010, a motion to proceed *in forma pauperis*, and a Section 2241 petition to the petitioner. The petitioner has failed to respond to the magistrate judge's order.

Accordingly, the above-captioned case is dismissed *without prejudice*. The Clerk of Court shall close the file.*

IT IS SO ORDERED.

August 19, 2010
Florence, South Carolina

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

*Under the General Order (Misc. No. 3:07-MC-5014-JFA) filed on September 18, 2007, this dismissal *without prejudice* does *not* count as a “strike” for purposes of the “three strikes” provision of 28 U.S.C. § 1915(g). If the petitioner wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk’s Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).